

EXHIBIT A

1
2 UNITED STATES DISTRICT COURT
3 SOUTHERN DISTRICT OF NEW YORK
4 -----X
5
6 INDEPENDENT ASSET MANAGEMENT LLC
7 and OLA HOLMSTROM,
8
9 Plaintiffs,
10
11 v. 1:07-CV-06431-JSR
12
13 DANIEL ZANGER,
14
15 Defendant.
16
17 -----X
18
19 March 3, 2008
20 10:30 a.m.
21
22 Deposition of JOSEPH J. PORCO, taken by
23 defendant, pursuant to notice, at the offices of
24 Jones Day, 222 East 41st Street, New York, NY
25 10017, before Joseph B. Pirozzi, a Registered
Professional Reporter and Notary Public of the
State of New York.

1
2 APPEARANCES:
3
4 BALESTRIERE, PLLC
5 Attorneys for plaintiffs
6 225 Broadway
7 Suite 2700
8 New York, NY 10007
9 BY: CRAIG STUART LANZA
10 WILLIAM HOLLEMAN
11
12 JONES DAY
13 Attorneys for defendant
14 222 East 41st Street
15 New York, NY 10017
16 BY: THOMAS H. SEAR
17
18
19
20
21
22
23
24
25

1
2 STIPULATIONS
3
4 IT IS HEREBY STIPULATED AND AGREED,
5 by and between counsel for the respective parties
6 hereto, that all objections, except as to form,
7 are reserved to the time of trial.
8 IT IS FURTHER STIPULATED AND AGREED
9 that the deposition may be signed and sworn to
10 before any officer authorized to administer an
11 oath.
12 IT IS FURTHER STIPULATED AND AGREED
13 that the sealing and filing of the deposition be
14 waived.
15
16
17
18
19
20
21
22
23
24
25

1 Porco
2 JOSEPH J. PORCO
3 called as a witness, having been duly sworn,
4 testified as follows:
5 EXAMINATION
6 BY MR. SEAR:
7 MR. SEAR: Let's just note the time.
8 It is about 25 of 11. Counsel had informed
9 me earlier that they were stuck in traffic
10 and that accounts for a late start.
11 Q. Mr. Porco, directing your attention to
12 2005. Were you associated with an entity called
13 Independent Asset Management?
14 A. Yes.
15 Q. And can we refer to that as IAM?
16 A. Sure.
17 Q. And what was your position with IAM in
18 2005?
19 A. Managing director.
20 Q. And what were your responsibilities?
21 A. I dealt with several different areas,
22 interacted with administration and the
23 administrator down in Bermuda, interacted with
24 counsel to the fund, assisted with compliance
25 issues, handled previous audit by the NFA, and

77

1 Porco

2 continue to operate?

3 A. IAM was getting by and continuing to

4 operate and we were continuing to try to market

5 up until the point that we could no longer market

6 Dan.

7 Q. I'm not asking you about marketing Dan.

8 I'm asking you whether in August, September and

9 October there were conversations between you and

10 George to the effect that IAM did not have enough

11 money to continue to operate?

12 A. No, because we were going to continue

13 to raise assets either for Dan or from other

14 classes of shares.

15 Q. To your knowledge, was Dan told in or

16 around August, September, October that IAM did

17 not have enough money to pay its bills?

18 A. Not by me.

19 Q. Did IAM have enough money to pay its

20 bills during the months of August, September and

21 October.

22 A. IAM had been paying their bills.

23 Q. I'm not asking you what they had been

24 doing, I'm asking you during the months of

25 August, September and October if IAM had enough

78

1 Porco

2 even to pay its bills?

3 A. Yes, IAM had enough money to pay its

4 bills.

5 Q. During those months it did pay those

6 bills?

7 A. Things were lean but we were continuing

8 to meet our obligations.

9 Q. In connection with liquidation of the

10 fund, how much money did AIM get paid?

11 (Telephone interruption)

12 A. IAM didn't get paid in regards to Dan's

13 redemption.

14 Q. In connection with the liquidation in

15 or around December of 2006, did IAM get any

16 money?

17 A. IAM didn't get revenue -- Dan was given

18 back the money that was his. Some portion was

19 retained per the offering memorandum by the

20 administrator and there was no gain to IAM.

21 Q. Was IAM paid a management fee for

22 December of 2006?

23 A. I don't know what the cutoff dates

24 were, but the history of the management fees

25 which were paid are all in the Butterfield

79

1 Porco

2 transcripts that show the monthly reportings, so

3 it would show a list of when the last payment was

4 made, it would be in there, and I believe you

5 have that.

6 MR. SEAR: Has that been produced to

7 us?

8 MR. LANZA: I believe so. We don't

9 have everything from Butterfield.

10 THE WITNESS: You have all that stuff,

11 I think.

12 MR. SEAR: I would either ask for the

13 production or I would ask for the Bates

14 numbers, please.

15 THE WITNESS: I mean, it lays it all

16 right out. Everything is very transparent.

17 I mean, that's one of the reasons why we set

18 up in Bermuda. We worked with a group like

19 Butterfield Fund Service, had an auditor

20 like D&T, worked with Appleby Sperling and

21 had a legal team like Williams Mullen.

22 Everything was always very transparent. The

23 accounting was always done correctly and

24 then reviewed by the auditors.

25 So whatever these figures are and you

80

1 Porco

2 are looking for should all be available for

3 you guys to see what was paid and when.

4 Q. Let me show you what we have marked as

5 Zanger Exhibit 10.

6 (Zanger Exhibit 10 was marked for

7 identification)

8 Q. This is a letter to Mr. Steven Schulman

9 who was and is counsel for Mr. Zanger and to Mr.

10 Lanza, your counsel. Have you seen this letter

11 before?

12 A. I don't know if this was forwarded just

13 to George or whether I received a cc on this.

14 But this would have come through our law firm. I

15 think you sent it just to George.

16 Q. Do you have any knowledge as to whether

17 or not this letter was responded to?

18 A. Is this the lawyer that Dan had prior

19 to you, the guy that got in all the trouble and

20 he had to fire him?

21 Q. That's not correct what you just said,

22 but he is the lawyer that was representing Dan

23 during this period of time.

24 A. I'm not familiar with this letter.

25 Q. You don't know whether there was a